

PIKE COUNTY PROJECT DEVELOPMENT BOARD

REGULAR MEETING MINUTES

**Pike County Courthouse
Pikeville, Kentucky**

April 2, 2009, at 5:00 p.m.

PRESIDING OFFICER: Circuit Judge Eddy Coleman

MEMBERS OF THE BOARD PRESENT:

**City Manager/AOC Representative Donovan Blackburn
Circuit Court Clerk David Deskins
AOC Project Manager Jeff Lilly
District Judge Darrell Mullins**

OTHERS PRESENT:

**Ryan Barrow of Ross, Sinclaire & Associates
Jeff Gregory, Sherman, Carter & Barnhart
Jeanne Robinson, Executive Assistant to Judge Rutherford
David Sumner, Codell Construction
Rose Farley, Recorder
Mike Stewart, Grace Fellowship**

MEMBERS OF THE BOARD ABSENT:

**Judge/Executive Wayne T. Rutherford
Magistrate Jeff Anderson
State Bar Association Representative Neal Smith**

Circuit Judge Eddy Coleman of the Pike County Project Development Board acted as presiding officer for a regularly scheduled meeting of the Board on April 2, 2009, at 5:00 p.m. in the Conference Room of the office of Judge/Executive Wayne T. Rutherford at 146 Main Street, Pikeville, Kentucky. Judge Rutherford had to be out of town. **Upon motion by David Deskins and second by Donovan Blackburn, the Board unanimously APPROVED the meeting minutes for March 5, 2009.**

Judge Coleman called upon Assistant Pike County Attorney R. Roland Case to present updates on the condemnation proceedings already filed. Attorney Case stated there are several interlocutory judgments entered and he is now waiting on the time for appeal to run on those. He informed the Board that on April 9, there is a hearing in front of Judge Caudill in Prestonsburg, specifically on Larry Webster's counterclaim. After that, the Judge may rule on Don Combs' motion but Attorney Case said he expects a favorable outcome. He said he had spoken with Judge Charles Lowe and a decision must soon be made as to whether the money will be paid into the court and possession taken. He said once one piece of property is purchased, a commitment is made for all of the properties. He does expect Mr. Webster to appeal and he suggested trying to secure a trial date on the other cases so they may be tried while awaiting that appeal.

He said he needed to know with whom he and Rusty Davis, Pikeville City Attorney, should speak since some of the landowners do want to settle. He said he felt Alcie Combs might appeal and he wants to negotiate with other landowners but expects to try the hotel property and Raccoon Auto Sales. The Raccoon owners are not contesting the taking, only the appraisal price, so that one probably will have to be tried. Interlocutory judgment has been granted on the Lonnie (Buddy) Johnson property and the Pinson Hotel Property. He again stated that at some point the decision of whether to go ahead and pay and begin building must be made.

Judge Coleman asked if the Board wanted to discuss the property issue at this time or needed Executive Session. Jeff Lilly, AOC Project Manager, said going into Executive Session would be prudent. Judge Coleman then asked if the money should be paid per acquisition. Mr. Lilly stated if the Board goes ahead, he wants to make sure that when the money is actually paid in, it will cover all properties needed, making acquisition complete. He pointed out since no interlocutory judgment has been rendered for Raccoon Auto Sales, that would prevent the Board from taking possession of that corner and Attorney Case agreed.

Attorney Case stated the problem would be if Mr. Webster appealed, then possession could not be achieved simply with the interlocutory judgment. Mr. Lilly said if the Board does not obtain all the properties, it is still at a disadvantage. Judge Coleman said core drilling had been mentioned and if part of the properties are secured, that could be begun. Mr. Lilly said, speaking for Jeff Gregory and David Sumner, they cannot go ahead until all eight properties and all eight parcels are in their possession to enable testing. He said that would be his only hesitation in paying into the escrow at this time. Mr. Lilly said having some drilling done could result in more expense later. Judge Coleman asked if an inspection of the property could be done.

Jeff Gregory of Sherman, Carter and Barnhart, Architects, stated when someone comes onsite to drill, bad incidents could occur. He said demolition right now is not a good idea; that drilling by the engineers would be done twice anyway and that would mean not waiting until all the buildings are down. He said when the buildings are down, that is different and all eight could be done in a row. Attorney Case said if the committee voted to take possession and pay into court when interlocutory judgments were secured on all the parcels, the Board would then be able to pay the money at that time. Donovan Blackburn asked what the time frame was and Attorney Case replied he did not know; that not being able to obtain the interlocutory judgments would hold up taking possession of the property. He said most of the leaseholders on the other properties are basically leased out, either month-to-month or holding a provision of eminent domain in the lease. Mr. Gregory again stressed that demolition is not an immediate factor now. Judge Coleman pointed out there must be a period of time for the people in the building to move out; that there would be a delay from the time of payment of the money and the taking possession of the building.

Mr. Blackburn asked if there was a pattern and Mr. Gregory responded the engineer would determine where he wants the holes, depending on his comfort level. Mr. Lilly said nothing was more important than getting the holes in the right location. Mr. Gregory emphasized that when the demolition actually occurs, it could change the entire foundation design--not the building design but the foundation. Judge Coleman suggested the Board go into Executive Session. **Upon motion by Judge Coleman and second by**

Donovan Blackburn, the Board unanimously APPROVED moving into Executive Session for the remainder of the discussion of properties.

Following Executive Session, Judge Coleman stated what needed to be done today is determine how to treat the interlocutory orders already in and those coming. **Upon motion by Donovan Blackburn and second by David Deskins, the Board unanimously AUTHORIZED that the required amount of money would be paid in as the interlocutory judgments are obtained and then as the properties become available to the Board, seek and take possession as the attorneys recommend.**

Mr. Lilly said he had discussed with Mr. Gregory and Steve Sherman about the building being green. Mr. Gregory said many of the things they do are already going toward the credits for securing LEED accreditation. He said all of the documentation has to comply with requirements. He informed the Board there is a council which determines that LEED certification is merited and much documentation is required for that certification. He said their contract is specifically for the LEED certification services and that contract reimburses for the additional time needed for those services. He said this involves a completely different branch of documenting that what is being done has followed the rules and requirements and this reimburses both the architects and consultants for their work. He said the decision can still be made midway through to see if the money is available.

He said one of the requirements of LEED is primarily a third-party review and verification and those costs are not borne at the time of construction. He said the amount of estimate from the consultants is about \$122,000 with enhanced commissioning an additional \$40,000. He said if the Board chooses not to do this, there will be no LEED certification. He stressed that by taking it, though, their documentation will show things that need to be fixed with a typical payback being about 3% of the building costs. Summing up, he asserted that whatever fee is paid, the commissioning is repaid many times over. He said the LEED process is what the state is heading for and this provides a good opportunity for this Board to be involved.

Mr. Deskins asked what AOC felt about the commissioning and Mr. Lilly replied it is something AOC wants to attempt to do. David Sumner of Codell Construction pointed out Codell's fees would have to come as the building is being built. Mr. Lilly suggested an estimate to get things started. Mr. Gregory said these are monies that would be disbursed between now and after bidding. He said after the bid, the Board might not want to do it. He said it would be set up to give alternatives to the Board for the LEED certification. **Upon motion by Judge Eddy Coleman and second by Judge Darrell Mullins, the Board unanimously AUTHORIZED the commissioning contract for the LEED certification.**

The next meeting was announced for May 7, 2009, at 5:00 p.m., and with no further business or comments, Judge Coleman ADJOURNED the meeting.

Respectfully submitted,

Rose Farley, Recorder